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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,222	03/16/2004	Robert A. Koch	BS00097CIP2	2036
7590	10/05/2005		EXAMINER CHOW, MING	
Scott P. Zimmerman P.O. Box 3822 Cary, NC 27519			ART UNIT 2645	PAPER NUMBER

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/801,222

**Applicant(s)**

KOCH, ROBERT A.

**Examiner**

Ming Chow

**Art Unit**

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3-16-04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-4, 10-12, 14-16, 18-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ilsen et al (US: 6757898).

Regarding claims 1, 3, 14, 16, 20, 21, Ilsen et al teach on column 6 line 27-30, the provider (claimed “a subscriber”) creates specific data for custom content and associates the custom data to a user.

Ilsen et al teach on column 6 line 62-63, a user (claimed “originating party”) initiates a communication to his provider (claimed “recipient”).

Ilsen et al teach on column 4 line 26-28, the communication is via the internet.

Regarding claims 2, 15, see column 2 line 64-65 and column 11 line 28.

Regarding claims 4, 11, 12, 19, see column 2 line 37-39.

Regarding claims 10, 18, see column 2 line 37-42.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ilsen et al as applied to claim 1 above.

Ilsen et al failed to teach the subscriber creates the data message via the internet network. However, Ilsen et al teach on column 5 line 67 to column 6 line 1, the providers (claimed “subscriber”) communicate with the server via HTTP (claimed “internet”). Therefore, “Official

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Notice” is taken that the providers being prompted for entering the data message is old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Ilsen et al to have the subscriber creates the data message via the internet network such that the modified system of Ilsen et al would be able to support the system users convenience of creating data messages via the widely used internet.

3. Claims 6, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilsen et al as applied to claim 1 above, and in view of Huna (US: 6438217).

Ilsen et al failed to teach “specifying a time of day that the data message is communicated to the recipient”. However, Huna teaches on column 16 line 20-24, a message server issues web pages for the user to enter message entry, recipient address, and delivery time.

It would have been obvious to one skilled at the time the invention was made to modify Ilsen et al to have the “specifying a time of day that the data message is communicated to the recipient” as taught by Huna such that the modified system of Ilsen et al would be able to support the system users convenience of sending the created data message to a recipient at a particular time of day.

4. Claims 7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ilsen et al as applied to claim 1 above.

Ilsen et al teach on column 9 line 40-41, the information is reviewed in advance.

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Ilse et al failed to teach the preview is performed by the subscriber. However, "Official Notice" is taken that the information is previewed by the subscriber (the "provider" of Ilse et al) is old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Ilse et al to have the "the preview is performed by the subscriber" such that the modified system of Ilse et al would be able to support the system users convenience of previewing the information by the subscriber.

Regarding claims 8, 9, see column 2 line 37-39.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ilse et al as applied to claim 1 above, and in view of Howes (US: 6738784).

Ilse et al failed to teach "voice commands for creating the data message". However, Howes teaches on column 4 line 37-44, data files may be created by voice commands.

It would have been obvious to one skilled at the time the invention was made to modify Ilse et al to have the "voice commands for creating the data message" as taught by Howes such that the modified system of Ilse et al would be able to support the system users convenience of creating data messages by using voice commands.

### ***Conclusion***

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6. The prior art made of record and not replied upon is considered pertinent to applicant's disclosure.

- Creamer et al (US: 2004/0122941) teach customized voice response menus.

7. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

**Or faxed to Central FAX Number 703-872-9306.**

Patent Examiner

Art Unit 2645

Ming Chow



**FAN TSANG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**